

REQUEST FOR PROPOSALS

INDIANA FINANCE AUTHORITY

FOR

DEVELOPER SERVICES

FOR A

***DEVELOPMENT PROJECT TO BE
LOCATED IN SYRACUSE, INDIANA***

**DUE TO THE INDIANA FINANCE AUTHORITY BY
NOVEMBER 23, 2010
5:00 P.M. EST**

REQUEST FOR PROPOSALS OVERVIEW

This is a Request for Proposals (“RFP”) issued by the Indiana Finance Authority (“IFA”).

At the request of the Receiver for the property, the IFA was asked to explore an opportunity which may result in the State, in conjunction with a private partner, acquiring a parcel of land, commonly known as Oakwood Park (“Oakwood Park”), on Lake Wawasee in Syracuse, Indiana, for the public purpose of creating an additional State Recreation Area.

Oakwood Park includes both traditional State Recreational Area opportunities (e.g. camping, trails, water access), as well as lodging, restaurant and conference facilities. The purpose of this RFP is to solicit redevelopment and management proposals from qualified developers (“Respondents”) interested in partnering with the IFA in the acquisition and redevelopment of Oakwood Park. This RFP solicits qualifications and proposals of prospective developers who wish to enter into an Acquisition and Development Agreement with the IFA to acquire and/or develop Oakwood Park; covering all associated State costs. Either a long term management contract and/or ownership interest may be proposed and will be considered by the Authority in its evaluation of responses to this RFP.

This RFP is intended to publicize the acquisition and development opportunities described herein. The IFA creates no obligation, expressed or implied, by issuing this RFP or by receipt of any submissions pursuant hereto. The award of any agreement(s) and/or execution of any Acquisition and Development Agreement as a result of this RFP shall be at the sole discretion of the IFA. Neither this RFP nor any proposal submitted in response hereto is to be construed as a legal offer.

The purpose of this RFP is to seek proposals from interested developers. No Acquisition and Development Agreement will be executed without further discussion and negotiation with the Successful Developer (hereinafter defined). The IFA will not be in any manner responsible for any amount to any Respondent, under any circumstances, including, without limitation, as a result of the termination of the RFP process.

I. Confidential Information

Respondents are advised that materials contained in their responses are subject to the Indiana Access to Public Records Act, IC 5-14-3 et seq. (the “APRA”), and after the execution of a related agreement, may be viewed and/or copied by any member of the public, including news agencies and competitors. Respondents claiming a statutory exception to the APRA must indicate on their proposal that confidential materials are included, specify which statutory exception provision applies and identify the relevant information to which the Respondent wishes to apply the exception. The IFA reserves the right to make independent determinations of confidentiality. If the IFA does not agree with the information designated confidential pursuant to one of the disclosure exceptions to the APRA, it may either reject the proposal or discuss its interpretation of the allowable exceptions with the Respondent. If agreement can be reached, the proposal will be considered. If agreement cannot be reached, the IFA will remove the proposal from consideration for award and return the proposal to the Respondent. The IFA will not determine price to be confidential information.

II. Scope of Work

Objectives

The State's primary development objective for Oakwood Park is to create a new State Recreational Area. It is the intent of the State to update Oakwood Park to its original condition in order for the general public to have access to its campground, boat ramp, trails, athletic facilities, Inn, restaurant, conference center, etc... The IFA anticipates the Successful Developer to partner with the IFA in the acquisition and/or redevelopment of all facilities at Oakwood Park.

Land Description

Oakwood Park consists of over 25 acres on the northwest shore of Lake Wawasee in Syracuse, Indiana. The property includes camping facilities, cabins, boat docks and lake access, as well as athletic facilities, a playground and trails. There is also a 77-room Inn, a restaurant, auditorium/program center, conference/reception center, dormitory and dining hall.

Oakwood Park was most recently operated by an independent, non-profit Christian organization offering retreat/camp style programming, as well as traditional lodging and entertainment at the 77-room Inn and restaurant.

III. Terms

Overview of Process

This RFP is open to all prospective developers capable of and qualified to meet the objectives and requirements described in this document. Upon receipt, all responses will be reviewed for completeness in accordance with the submission criteria highlighted in Section V of this RFP. At the end of the completeness review, the IFA will assess each Respondent's qualifications and Respondents that are deemed qualified by the IFA will receive correspondence providing additional information on the design submission process.

It is anticipated this process will result in the execution of an Acquisition and Development Agreement (the "Agreement") with the successful developer (the "Successful Developer") expected to partner with the IFA in the acquisition and/or development of the property consistent with certain conditions and objectives as set forth in the Agreement, which shall be fully executed prior to the State's purchase of Oakwood Park.

Development and Legal Agreements

Please note the IFA has adopted many of the required State of Indiana boilerplate contractual provisions. The IFA hereby puts Respondents on notice that a successful award at the end of the process will be contingent upon the Agreement complying with these standard contractual provisions (including but not limited to drug-free workplace certifications, minority and women business enterprise compliance, nondiscrimination certifications, licensing standards, certifications relating to HIPAA, certifications regarding telephone solicitations, and certifications relating to State ethics policies.) See the attached Exhibit A for some of the required boilerplate terms. All other terms and conditions will be negotiated prior to execution of the final Agreement.

The receipt of the responses or any other documents during the RFP, qualification, bidding, review or negotiation process shall in no way obligate the IFA to enter into any

contractual agreement of any kind with any party. The award of any agreement(s) shall be at the sole discretion of the IFA, and accordingly the IFA reserves the right, in such discretion, to reject all responses or accept any responses that in its judgment will adequately and sufficiently serve the interests of the State. The IFA reserves the right to waive any qualification formality at its discretion.

Respondents must provide to the IFA evidence of their access to sufficient cash and/or financing that enables the Successful Developer to perform all requirements set forth in the Agreement.

Respondent shall certify within the letter of transmittal that all information provided herein is accurate and complete to the best of its knowledge. Any false or misleading information may result in disqualification of the Respondent, at the discretion of the IFA. The IFA reserves the right to modify or terminate this solicitation at any stage if it determines this action to be in its best interests. The receipt of responses or other documents at any stage of the RFP process will in no way obligate the IFA to enter into any agreement of any kind with any party.

IV. Responses

Prospective developers that anticipate responding to this RFP shall indicate their interest as soon as possible by providing contact information via e-mail to the representative of the IFA listed below.

Respondents should submit **an original and four (4) copies of their written response (please make sure permanent bindings aren't used)** to:

**Indiana Finance Authority
One North Capital, Suite 900
Indianapolis, IN 46204
Attn: Jim McGoff
jmcgoff@ifa.in.gov**

Responses must be received no later than **5:00 p.m. EST on November 23, 2010. Consideration of responses received after 5:00 p.m. EST on such date will be at the discretion of the IFA.** The outside should be clearly marked:

"RESPONSE TO REQUEST FOR PROPOSAL - OAKWOOD PARK"

No more than one (1) response per Respondent should be submitted. Each response should designate one person as the principal contact for the Respondent. Please provide the contact information for that person including email address. Following a review of the responses, some of the Respondents may be requested to make oral presentations and/or provide additional written information.

Any questions regarding this RFP must be submitted **in email to Jim McGoff at jmcgoff@ifa.in.gov no later than 5:00 p.m. EST on November 12, 2010. Questions received after 5:00 p.m. EST on such date will not be considered.** Depending upon the content and scope of the question, responses to questions will be promptly prepared and provided to each entity that has shown an interest in responding and provided contact information via email (as described above). "Oakwood" should be included in the subject line of the e-mail.

OTHER THAN AS PROVIDED ABOVE, INQUIRIES ARE NOT TO BE DIRECTED TO ANY STAFF MEMBER OR OTHER MEMBER OF THE IFA OR ANY OTHER STATE-RELATED EMPLOYEE. SUCH ACTION MAY DISQUALIFY THE RESPONDENT FROM FURTHER CONSIDERATION FOR AN AGREEMENT AS A RESULT OF THIS RFP. RESPONDENTS MAY NOT RELY UPON VERBAL RESPONSES TO ANY INQUIRY.

V. Selection Process Overview

The IFA will review all of the responses for the following:

1. Responses offering the best means of satisfying the interests of the State at the lowest possible cost to the State (no cost is preferred).
2. Completeness of responses with respect to Respondent Qualifications and Development Plan required by Section VI and the General Information required by Section VII.
3. The IFA supports the “Buy Indiana” initiative. It is a strong preference that respondents meet the definition of an Indiana Business. Please refer to the following website to see if you fit within the definition and to learn more about the “Buy Indiana” initiative: <http://www.in.gov/idoa/2467.htm>.
4. The IFA must approve changes in the composition of a Respondent team after submission if the team is comprised of more than one entity.
5. A single Respondent or a limited number of Respondents may be selected for interviews and/or agreement negotiations. In the event that negotiations are not satisfactory, IFA reserves the right to interview and/or negotiate with additional Respondents, but is not obligated to do so.

VI. Respondent Qualifications and Development Plan

1. Demonstrated experience and ability from past projects of a similar nature, including knowledge/experience of the hospitality industry.
2. Demonstrated experience and expertise in projects which are responsive to all applicable criteria, rules, regulations and statutes, including the planning, design, and management of facilities for State entities (including DNR) and the hospitality industry.
3. Creativity of redevelopment plans for the property, being mindful that it is the intent of the State to restore Oakwood Park to its original condition, where appropriate.
4. Feasibility of the development plan and timeline submitted for rehabilitation of Oakwood Park.
5. Experience or familiarity with similar projects within the area/region of the project, including demonstrated understanding of local needs and common practices.
6. Technical qualifications, experience, and reputation of development team.

7. Evidence of readiness of the team to begin substantive work upon receiving notice of being the Successful Developer.
8. Experience and expertise with public bidding requirements, particularly with respect to expediting project completion.
9. Demonstrated experience in developing and managing a timeline and an aggressive schedule.
10. Evidence of the financial capacity to immediately fund acquisition costs and associated development costs; completing all development activities in a timely manner.
11. Demonstrated ability to work with entities similar to the IFA, including past examples and references.

VI. Required Respondent Information

The IFA requires the following information be included in the response. Additional information may be and is encouraged to be submitted in order for the IFA to better evaluate the selection criteria listed above. A concise yet thorough collection of information is requested.

1. Company name and address of principal location and office(s).
2. Please describe:
 - (a) A brief history of your entity and how the selection of your entity would benefit the IFA.
 - (b) Your entity's experience, background, or expertise that qualifies your entity for this project.
 - (c) Number of full-time regular employees, and how many of those are located in Indiana, if any.
3. List names, titles, and experience of the team members and/or consultant's team members who would be assigned to perform significant work under this agreement (including market analysts, designers, architects, engineers, consultants, and/or general contractors). The IFA would like to have one individual assigned to plan and coordinate all work under this agreement. Also provide the names and experience of supervisory personnel who will be assigned to the performance of this agreement. Briefly outline the roles of the team members and key personnel.
4. Indicate how your entity will provide the services requested in this RFP and an outline of procedures to be used by the entity in providing a unified team approach. The response should include a statement of the philosophy of the team's approach to this project. Provide any project histories or other information available that would indicate past performance on similar types of projects (especially that which would address the selection criteria).
5. References:

- (a) Provide a list several former customers or clients who can provide information about similar work your entity has completed (references may be contacted).
 - (b) Provide a list of financial references that can provide information about the entity.
- 6. Submit a list of work similar to the proposed project and a list of other similar work completed within the last five years. The list should be of comparable projects in which team members have participated. Respondents should specify how these comparable projects relate to the proposed development. Feel free to submit an example of similar prior work
- 7. Submit a list of any projects your entity has failed to complete within the last five years.

VII. Appendix

Exhibit A. State Contract Boilerplate

EXHIBIT A – STATE CONTRACTS BOILERPLATE

The Acquisition and Development Agreement will contain the following provisions in addition to the legal and business terms directly related to the acquisition and development of Oakwood Park.

- 1. Access to Records.** The Developer and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Agreement. They shall make such materials available at their respective offices at all reasonable times during this Agreement term, and for three (3) years from the date of final payment under this Agreement, for inspection by the IFA or its authorized designees. Copies shall be furnished at no cost to the IFA if requested.
- 2. Assignment; Successors.** The Developer binds its successors and assignees to all the terms and conditions of this Agreement. The Developer shall not assign or subcontract the whole or any part of this Agreement without the IFA's prior written consent. The Developer may assign its right to receive payments to such third parties as the Developer may desire without the prior written consent of the IFA, provided that Developer gives written notice (including evidence of such assignment) to the IFA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Agreement and shall not be made to more than one party.
- 3. Authority to Bind Developer.** The signatory for the Developer represents that he/she has been duly authorized to execute this Agreement on behalf of the Developer and has obtained all necessary or applicable approvals to make this Agreement fully binding upon the Developer when his/her signature is affixed, and accepted by the IFA.
- 4. Changes in Work.** The Developer shall not commence any additional work or change the scope of the work until authorized in writing by all signatories hereto. No claim for additional compensation shall be made in the absence of a prior written approval executed by all signatories hereto. This Agreement may only be amended, supplemented or modified by a written document executed in the same manner as this Agreement.
- 5. Compliance with Laws.**
 - A.** The Developer shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference.
 - B.** The Developer and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the IFA or the State, as set forth in IC 4-2-6 *et seq.*, IC 4-2-7 *et seq.*, the regulations promulgated thereunder, Executive Order 04-08, dated April 27, 2004. If the Developer is not familiar with these ethical requirements, the Developer should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<<http://www.in.gov/ethics/>>>>. If the Developer or its agents violate any applicable ethical standards, the Developer may be subject to penalties under IC 4-2-6, 4-2-7, 35-44-1-3, and under any other applicable laws.

- C. The Developer certifies by entering into this Agreement, that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the IFA or the State. Further, the Developer agrees that any payments in arrears and currently due to the IFA or the State may be withheld from payments due by the IFA to the Developer.
 - D. The Developer warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the IFA or the State, and agrees that it will immediately notify the IFA of any such actions.
 - E. Any payments that IFA may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.
 - F. The Developer warrants that the Developer and its subcontractors, if any, shall obtain and maintain all required registrations, permits, licenses, and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the IFA.
 - G. The Developer affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.
 - H. As required by IC 5-22-3-7:
 - (1) The Developer and any principals of the Developer certify that, in accordance with IC 5-22-3-7, (A) the Developer, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7 (Telephone Solicitation Of Consumers), (ii) IC 24-5-12 (Telephone Solicitations), or (iii) IC 24-5-14 (Regulation of Automatic Dialing Machines) in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the Developer will not violate the terms of IC 24-4.7 for the duration of the Agreement, even if IC 24-4.7 is preempted by federal law.
 - (2) The Developer and any principals of the Developer certify that an affiliate or principal of the Developer and any agent acting on behalf of the Developer or on behalf of an affiliate or principal of the Developer (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) will not violate the terms of IC 24-4.7 for the duration of the Agreement, even if IC 24-4.7 is preempted by federal law.
6. **Confidentiality of IFA Information.** The Developer understands and agrees that data, materials, and information disclosed to Developer may contain confidential and protected information. The Developer covenants that data, material, and information gathered, based upon, or disclosed to the Developer for the purpose of this Agreement will not be disclosed to or discussed with third parties without the prior written consent of the IFA.

7. Conflict of Interest.

A. As used in this section:

“Immediate family” means the spouse and the unemancipated children of an individual.

“Interested party,” means:

- 1) The individual executing this Contract;
- 2) An individual who has an interest of three percent (3%) or more of Developer, if Developer is not an individual; or
- 3) Any member of the immediate family of an individual specified under subdivision 1 or 2.

“Commission” means the State Ethics Commission.

B. Developer has an affirmative obligation under this Contract to disclose to the Department when an interested party is or becomes an employee of the IFA or the State. The obligation under this section extends only to those facts that Developer knows or reasonably could know.

8. Debarment and Suspension. The Developer certifies, by entering into this Agreement, that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State. The term “principal” for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Developer.

9. Drug-Free Workplace Certification. The Developer hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Developer will give written notice to the IFA within ten (10) days after receiving actual notice that the Developer or an employee of the Developer has been convicted of a criminal drug violation occurring in the Developer’s workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of agreed upon payments, termination of this Agreement and/or debarment of contracting opportunities with the IFA for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total agreed upon amount set forth in this Agreement is in excess of \$25,000.00, Developer hereby further agrees that this Agreement is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Developer and made a part of the contract or agreement as part of the contract documents.

The Developer certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Developer's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Developer's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Developer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying in writing to the IFA within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

10. Governing Laws. This Agreement shall be construed in accordance with and governed by the laws of the State and suit, if any, must be brought in the State. The Developer specifically consents to this jurisdiction.

11. Indemnification. The Developer agrees to indemnify, defend, and hold harmless the IFA and the State, its agents, officers, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Developer and/or its subcontractors, if any, in the performance of this Agreement. The IFA and the State shall not provide such indemnification to the Developer.

12. Independent Contractor. Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Developer shall be responsible for providing all

necessary unemployment and workers' compensation insurance for the Developer's employees.

- 13. Licensing Standards.** The Developer and its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Developer pursuant to this Agreement.
- 14. Merger & Modification.** This Agreement constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Agreement will be valid provisions of this Agreement. This Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by all necessary parties.
- 15. Minority and Women Business Enterprise Compliance.** The Developer agrees to comply fully with the provisions of the Developer's MBE/WBE participation plan.
- 16. Nondiscrimination.** This covenant is enacted Pursuant to the Indiana Civil Rights Law, specifically IC 22-9-1-10, and in keeping with the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act.

Pursuant to the Indiana Civil Rights Law, specifically IC 22-9-1-10, and in keeping with the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Developer shall not discriminate against any employee or applicant for employment in the performance of this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, the Services Provider certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on Protected Characteristics in the provision of services.

- 17. Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the Developer prior to execution of this Agreement, but specifically developed under this Agreement shall be considered "work for hire" and the Developer transfers any ownership claim to the IFA and all such materials will be the property of the IFA. Use of these materials, other than related to contract performance by the Developer, without the prior written consent of the IFA, is prohibited. During the performance of this Agreement, the Developer shall be responsible for any loss of or damage to these materials developed for or supplied by the IFA and used to develop or assist in the services provided while the materials are in the possession of the Developer. Any loss or damage thereto shall be restored at the Developer's expense. The Developer shall provide full, immediate, and unrestricted access to the work product during the term of this Agreement.
- 18. Penalties/Interest/Attorney's Fees.** The IFA will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as permitted by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1. Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from the IFA's failure to make prompt payment shall be based solely on the amount of funding originating from the IFA and shall not be based on funding from federal or other sources.

- 19. Security and Privacy of Health Information.** The Developer agrees to comply with all requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) in all activities related to this Agreement, to maintain compliance throughout the life of this Agreement, to operate any systems used to fulfill the requirements of this Agreement in full compliance with HIPAA and to take no action which adversely affects the State of Indiana's HIPAA compliance.

The parties acknowledge that the Department of Health and Human Services has issued the Final Rule, as amended from time to time, on the Standards for Privacy of Individually Identifiable Health Information, as required by HIPAA. To the extent required by the provisions of HIPAA and regulations promulgated thereunder, the Developer assures that it will appropriately safeguard Protected Health Information (PHI), as defined by the regulations, which is made available to or obtained by the Developer in the course of its work under this Agreement. The Developer agrees to comply with applicable requirements of law relating to PHI with respect to any task or other activity it performs for the IFA as required by the final regulations.

- 20. Severability.** The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Agreement.

- 21. Substantial Performance.** This Agreement shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

- 22. Taxes.** The IFA is exempt from state, federal, and local taxes. The IFA will not be responsible for any taxes levied on the Developer as a result of this Agreement.

- 23. Travel.** No expenses for travel will be reimbursed unless specifically permitted under the Duties and Services or Consideration provisions. Expenditures made by the Developer for travel will be reimbursed at the current rate paid by the IFA and in accordance with the State of Indiana Travel Policies and Procedures as specified in the current Financial Management Circular. Out-of-state travel requests must be reviewed by the IFA for availability of funds and for appropriateness per Circular guidelines.

- 24. Waiver of Rights.** No right conferred on either party under this Agreement shall be deemed waived, and no breach of this Agreement excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the IFA's review, approval or acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or for any cause of action arising out of the performance of this Agreement, and the Developer shall be and remain liable to the IFA in accordance with applicable law for all damages to the IFA caused by the Developer's negligent performance of any services furnished under this Agreement.

- 25. Work Standards.** The Developer shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the IFA becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Agreement, the IFA may request in writing the replacement of any or all such individuals, and Developer shall grant such request.

26. Non-Collusion and Acceptance. The undersigned attests, subject to the penalties for perjury, that he/she is the Developer, or that he/she is the properly authorized representative, agent, member or officer of the Developer, that he/she has not, nor has any other member, employee, representative, agent or officer of the Developer, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.